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August 23, 1996

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Hon. William F. Caton
Acting Secretary
Office of the Secretary
Federal Communications Commission
Washington, D.C. 20554

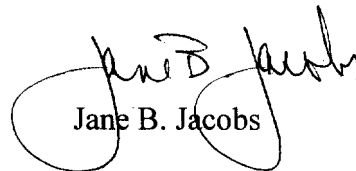
DOCKET FILE COPY ORIGINAL

Re: CC Dockets Nos. 96-146 and 93-22
Comments on Proposed Rulemaking

Dear Secretary Caton:

Enclosed please find an original plus nine copies of the comments of the International Telemedia Association in response to the Notice of Proposed Rulemaking, released on July 11, 1996, in the above-referenced proceedings. Please date stamp and return to us in the self-addressed, stamped envelope enclosed, the extra copy of the filing for our records.

Sincerely,


Jane B. Jacobs

JRD:trd
Enclosure

cc: Ms. Mary Romano (with diskette)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)	
)	
Policies and Rules Governing Interstate)	
Pay-Per-Call and Other Information)	CC Docket No. 96-146
Services Pursuant to the Telecommunications)	
Act of 1996)	
)	
)	
In the Matter of)	
)	
Policies and Rules Implementing the)	CC Docket No. 93-22
Telephone Disclosure and Dispute Resolution Act)	

COMMENTS OF THE INTERNATIONAL TELEMEDIA ASSOCIATION

The International Telemedia Association (hereinafter "ITA"), by its attorneys, Klein, Zelman, Rothermel & Dichter L.L.P., respectfully submits these comments upon the Federal Communications Commission's ("FCC" or "Commission") Order and Notice of Proposed Rulemaking ("NOPR") released on June 11, 1996, in the above-captioned proceeding.

ITA is a London-based non-profit organization comprised of international "service operators", i.e., terminating points for international calls, which function in the same manner as service bureaus in the United States. A majority of such international service operators are members of ITA. Additionally, ITA is expanding its membership to include information providers and foreign telecommunications carriers.

ITA's comments are limited to paragraph 39 of the NOPR, specifically the comment that,

In apparent efforts to avoid consumer safeguards applicable to 900 number services, IPs have offered their services through . . . tariffed service systems that have been available on . . . international . . . POTS numbers. IPs evidently move their services from one arrangement and dialing sequence to another in response to new protective regulations, rulings, or enforcement actions, sometimes with the apparent encouragement of carriers who pay commissions to IPs in exchange for the increased traffic generated by information-service calls.

In fact, as set forth below, ITA voluntarily has adopted a Code of Practice and is in the process of adopting an Appendix to the Code governing the US market that as closely as possible parallel the safeguards contained in the TDDRA. All members agree to abide by the Code of Practice as a condition of membership. Rather than providing a means to "avoid consumer safeguards", international traffic involving members of ITA -- again, a majority of overseas service operators -- is subject to nearly the same restrictions as domestic pay-per-call services.

A copy of ITA's Code of Practice is attached as Exhibit A. The Code of Practice requires that all programs comply with the laws of the country within which the service is advertised. (Code of Practice, ¶5.2.3). All promotional advertising must conform to the laws and advertising standards of the country in which it is placed. (Code of Practice, ¶5.4.2). The Code prohibits misleading, incorrect, ambiguous or exaggerated claims in advertising. (Code of Practice, ¶5.4.3). Advertising must include details of relevant call charges.¹ (Code of Practice, ¶5.4.4). Advertising for adult services may not be directed at

¹Unlike domestic pay-per-call services, in which charges readily can be ascertained, in the case of international calls to POTS numbers, it is impossible to provide the exact rate for the call, because the per minute rate is affected by the point of origin of the call, the carrier, the time of day, the day of the week, and a host of other factors.

callers under the age of 18.² (Code of Practice, ¶5.4.5).

The Code of Practice also contains various measure to combat consumer fraud, including requirements that service operators be equipped to monitor and analyze traffic for duration, patterns, calls from non-authorized carriers, operator connected calls and other areas. Service operators are required to apply plausibility analysis to received traffic as to traffic volumes in relation to advertising efforts, volume of traffic from non-target markets, traffic patterns by advertising media, and traffic response to time of a television advertisement. (Code of Practice, Section 6).

Additionally, ITA members met with representatives of the Commission in March, 1996 and with the Federal Trade Commission ("FTC") earlier this summer to discuss their Code of Practice, and as a result of these meetings have proposed, and at their October, 1996 meeting are expected to adopt, an Appendix to the Code of Practice applicable to the US market. A copy of that Appendix is attached as Exhibit B. Its provisions include:

- A requirement that there be a preamble limiting service to adults 18 years of age or older, indicating that international long distance rates apply to the call and a short description of the service. The preamble must be delivered in a slow, deliberate and comprehensible manner. Use of the word "free" or any close derivative is prohibited. (Appendix, ¶5.2)

- As to advertising, the proposed Appendix provides that promotion of international telemedia services are to be limited to bona fide international

²A more extensive regulation of programming aimed at minors is contained in Section 7 of the Code, but is likely to be superseded by a proposed Appendix to the Code of Practice, discussed below, applicable to the US market.

direct dial codes. The use of the word “free” or close derivatives is prohibited in all advertising. The disclosure “International Long Distance Rates Apply” must be clearly and horizontally displayed. All disclosures must be of sufficient size and contrast with the background to insure that the disclosure is noticeable, readable and comprehensible. Finally, in radio or television advertising, if the telephone number is contained in the audio or video portion, then “International Long Distance Rates Apply” must be stated at least once in the audio portion of the advertisement. (Appendix, ¶5.4).

-Like the TDDRA, the proposed Appendix requires that programs shall not be marketed to children under the age of 12, and if directed at individuals under 18 years of age, must clearly and conspicuously require the caller to have the permission of a parent or guardian before calling the service. (Appendix, ¶7.3).

While the Commission may be skeptical of claims of self-regulation, in this case the majority of overseas traffic is subject to specific, written standards that closely approximate the TDDRA. This is not a vague claim that the industry will police itself; this is a situation in which the industry actively is regulating its own conduct in much the same manner as the FCC and FTC have regulated the domestic market. After all, given that the service operators and foreign carriers are located outside the United States, they are not subject to the Commission’s jurisdiction. Under such circumstances, the voluntary adoption and enforcement of the Code represents a genuine desire to ensure that consumer protections are in place.

For these reasons, we respectfully submit that the concerns raised in paragraph 30 of the NOPR have been addressed for a majority of international traffic. We again note that ITA's membership is expanding among service operators, but also is expanding to include information providers and carriers.

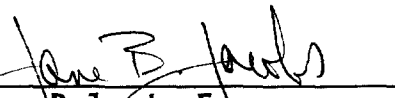
Conclusion

ITA appreciates the opportunity to provide its comments. As evidenced by its meetings with the FTC, which were initiated by ITA, ITA welcomes the opportunity to obtain any feedback possible from US regulatory agencies so that it can better target its own efforts at self-regulation.

Dated: New York, New York
August 23, 1996

Respectfully submitted,

INTERNATIONAL TELEMEDIA
ASSOCIATION

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International Telemedia Association

Code of Practice

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1. INTRODUCTION

Since its introduction in 1990 the International Audiotex business has grown into a major industry for network and service operators alike.

To maintain and promote today's audiotex and tomorrow's telemedia activities in a controlled and professional business environment the world's leading Telemedia Service Operators have joined together to form the International Telemedia Association.

This document details minimum requirements of members of the International Telemedia Association in the promotion and operation of international telemedia services. Additional requirements which reflect domestic market circumstances may also be considered subject to consultation.

The Code of Practice is binding on all members who shall contract to follow the rules in good faith and subject to the requirements for membership from time to time in force.

The International Telemedia Association will negotiate with Network Operators to achieve a partnership arrangement wherein network access for international telemedia services is restricted to members who are obliged to uphold the standards required by this Code of Practice.

2. MEMBERSHIP

2.1 General

The International Telemedia Association is a self-regulating non-profit making organisation funded entirely by the membership and managed by an independent Secretariat.

It aims to apply a common Code of Practice across Association members with guarantees of minimum standards and to promote co-operation between all business components of the international telemedia industry.

2.2 Invitation

Membership of the Association is by invitation and is open to all Telemedia Service Operators able and prepared to meet the following membership criteria:

- contract to abide by the International Telemedia Association Code of Practice and Association rules from time to time in force.
- provision of satisfactory business history and references
- disclosure of business registration details with identities of Directors

2.3 Categories

Alternative categories of membership may be introduced from time to time.

3. TERMINOLOGY

3.1 Telemedia Service Operator

An organisation or person responsible for the provision and management of facilities to store, load, access and monitor telemedia programmes.

3.2 Telemedia Programme Provider

An organisation or person contracting to provide and locate telemedia programmes with Telemedia Service Operators and who also contracts with media operators for the publication of service advertising to customers.

3.3 Telecoms Network Operator

An organisation responsible for the provision and management of national and/or international telecoms network services.

3.4 Telemedia Programme

Audio, video or data, real time, virtual real time or pre-recorded material of informative, educational or entertainment content.

3.5 Independent Adjudication Committee

A Committee chaired by an independent consultant and consisting of not less than two (2) other members of recognisable independent and international standing who are appointed by the Chairman. The Chairman of the International Telemedia Association will also attend as a committee member and in a voting capacity.

4. RESPONSIBILITIES

4.1 General

Telemedia services are operated in partnership between Telemedia Service Operators, Telemedia Programme Providers and originating and terminating Telecoms Network Operators.

4.2 Contracts

4.2.1 Telemedia Service Operators shall formally contract with Telemedia Programme Providers and shall ensure the following information is provided to their satisfaction:

- company name, address, telephone and fax contact numbers
- previous industry history
- appropriate references
- business registration details
- directors names
- business plans
- availability of business funding

Telemedia Service Operators will maintain this information on file and regularly update.

4.2.2 Contracts between Telemedia Service Operator and Telemedia Programme Provider shall specify:

- markets to be addressed
- programmes to be used
- media to be used
- adherence to ITA Code of Practice
- any specific local requirements

4.2.3 Telemedia Programme Providers shall also make available traffic forecasts by market for onward release to appropriate Network Operators.

4.2.4 Telemedia Service Operators will maintain contract and appropriate performance information on Telemedia Programme Providers for a period of 3 years. This information may be accessed by the International Telemedia Association Executive on request and in confidence.

4.3 Monitoring

4.3.1 The monitoring of programme content, quality and related advertising within the Code of Practice is the responsibility of the Telemedia Service Operator.

- 4.3.2 Telemedia Service Operators shall maintain a library of all programmes of Telemedia Programme Providers for a period of 12 months after the programme is removed from service.

4.4 Complaints

- 4.4.1 Complaints regarding non-compliance with the Code of Practice shall be made to the International Telemedia Association and all such complaints shall be passed to the Independent Adjudication Committee of recognised international standing with the power to apply sanctions where the Code is judged to have been infringed.
- 4.4.2 The International Telemedia Association and its members agree to abide by the decisions of the Independent Adjudication Committee and that its decisions shall be final and binding.
- 4.4.3 Complaints should be directed to :

International Telemedia Association

Abbey House
4 Abbey Orchard Street
London SW1P 2JJ

Tel. +44 171 799 2655 ext. 2204
Fax. +44 171 976 0108

All complaints received will be acknowledged and all complainants will be advised of the outcome.

4.5 Sanctions

- 4.5.1 It is a requirement of membership of the International Telemedia Association that members agree and contract to abide by the standards defined in the Code of Practice.
- 4.5.2 The Independent Adjudication Committee may warn, suspend or expel any member adjudged to have contravened the Code of Practice.
- 4.5.3 Any member under suspension or expulsion will forfeit all rights to International Telemedia Association representation or support including all rights to operate services within the partnership status.

5. TELEMEDIA PROGRAMMES

5.1 Legal

The Telemedia Service Operator shall ensure that all telemedia programmes are provided subject to all proprietary interests, rights, authorisations, licenses, consents and permissions including intellectual property rights having been obtained and any such requirement of law complied with as may be necessary to enable service to be made available to callers.

5.2 Content

- 5.2.1 The Telemedia Service Operator is responsible for the provision of continuous and uninterrupted announcements and/or service preambles for programmes where required to precede programme delivery.
- 5.2.2 All announcements, preambles and programmes shall commence at the beginning of the message.
- 5.2.3 All programmes must comply with the laws of the country within which the service is advertised or promoted.
- 5.2.4 Programmes which reflect a particular religious or political viewpoint must pay due regard to the sensibilities of those who may reasonably be expected to hold differing beliefs or political opinions.
- 5.2.5 Programmes shall not be of a type that might encourage racial and/or sexual discrimination.
- 5.2.6 No programmes shall give grounds for action or defamation, misrepresentation, breach of confidence or breach of copyright or otherwise be grossly offensive to reasonable people.
- 5.2.7 Programmes shall be accurate and shall not be designed to mislead or misrepresent. Topical programmes shall be kept up to date.
- 5.2.8 Programmes shall not be unreasonably prolonged or delayed.
- 5.2.9 Programmes offering specialised advice or opinion must specify the source of the information and the expert or authority providing the information at the beginning of programmes.
- 5.2.10 No caller shall remain connected to a programme or service for more than thirty (30) minutes. After thirty minutes any such call will be disconnected by the Telemedia Service Operator.

5.3 Quality

The Telemedia Service Operator is responsible for the acceptable technical quality of speech, audio, data or video content of programmes offered to callers up to the point of network connection.

5.4 Promotion

- 5.4.1 The Telemedia Service Operator is responsible to monitor the content and placement of advertising by Telemedia Programme Providers for programmes placed with its service.
- 5.4.2 All promotional advertising shall conform to the laws and advertising standards of the country in which it is placed.
- 5.4.3 Advertising shall not mislead with incorrect, ambiguous or exaggerated claims likely to influence a callers use of the service. Essential information shall not be deliberately excluded.
- 5.4.4 All advertising shall contain details of relevant call charges.
- 5.4.5 Advertising for Adult or Group Calling services shall not be directed at callers below the age of eighteen (18).
- 5.4.6 Advertising targeting children or young persons shall include a statement that parental approval should be sought before calling the service.

6. FRAUD

6.1 Definition

Fraud is defined as payments received by a Telemedia Programme Provider for traffic which is not attributable to the results of promotion or advertising.

6.2 Counter Measures

6.2.1 International Telemedia Association members undertake to identify fraudulent activities and to co-operate with other members and originating and terminating Telecoms Network Operators in the elimination of fraud.

6.2.2 Telemedia Service Operators shall be equipped to monitor traffic and conduct analysis independently and in co-operation with the Network Operator in the following areas:

- calls duration
- calling patterns
- calls from non-authorised carriers
- calls distribution by Telemedia Programme Providers
- operator connected calls
- line occupancy of direct traffic
- line occupancy of transit traffic

6.2.3 Telemedia Service Operators shall also apply plausibility analysis to received traffic as follows:

- traffic volumes in relation to advertising effort
- volume of traffic from non-target markets
- traffic patterns by advertising media
- traffic response to time of TV advertising

6.3 Relationships

6.3.1 In the interests of effective co-operation in the avoidance and elimination of fraud Telemedia Service Operators shall pursue close working contacts with their respective Network Operators.

6.3.2 Network Operators will be encouraged to achieve membership of FIINA.

6.3.3 Network Operators will be encouraged to operate the following network based facilities:

- C7 signalling with originating markets
- Call Detail Recording(CDR) for billing and analysis
- monthly listings of operator connected calls

7. CATEGORIES

7.1 General

The nature of the services offered via Telemedia Service Operators necessitates various additional specific requirements as detailed below.

7.2 Group Calling

7.2.1 Telemedia Service Operators should have the facilities to continuously supervise Group Call conversations by a trained Monitor to ensure reasonable levels of respect and courtesy are maintained. Callers violating the Code of Practice shall be disconnected by the Monitor.

7.2.2 Group Call Monitors shall be aged eighteen (18) or older and shall be fluent in the language specified for the service.

7.3 Children and Juveniles

7.3.1 It is recognised that the industry bears a particular responsibility to protect the interests of children and juveniles and all reasonable efforts will be made to achieve this. However it is also recognised that prime responsibility for such protection lies within parental control.

7.3.2 All programmes targeted at callers below the age of eighteen (18) shall be considered as child or juvenile programmes.

7.3.3 Any programmes promoted in media that is recognised as specifically for children or juveniles shall be considered a child or juvenile programme.

7.3.4 Child or juvenile programmes shall not exceed ten (10) minutes in duration and shall be preceded by a message detailing the cost per minute and recommending parental consent to place the call.

7.3.5 Child or juvenile programmes shall not:

- encourage callers to contact other telephone numbers having additional associated charges
- include or use material that may be considered offensive, obscene or indecent by a reasonable parent
- contain anything that may have an adverse mental or moral effect on the caller, nor shall the caller's innocence, lack of experience or lack of legal knowledge be exploited.

7.4 Computer

- 7.4.1 Telemedia Service Operators shall use all reasonable endeavours to ensure all computer based programmes under their control comply with the Code of Practice.
- 7.4.2 Programmes utilising real-time video of a sexually explicit nature are not permitted.

7.5 Video

- 7.5.1 Telemedia Service Operators shall use all reasonable endeavours to ensure all video based programmes under their control comply with the Code of Practice.
 - 7.5.2 Programmes utilising real-time video of a sexually explicit nature are not permitted.
-

DRAFT**APPENDIX : USA**

Additional requirements to the ITA Code of Practice to be applied to the USA market:

5.2 Content

- 5.2.11 (a) A preamble for all services shall include the following disclosures:
- (i) The service is limited to Adults 18 years of age or older where applicable.
 - (ii) International long distance rates apply to the call.
 - (iii) A short description of the service.
- (b) Preambles shall be delivered in a slow, deliberate and comprehensible manner.
- (c) The use of the word "FREE" (including close derivations) shall be prohibited in message preambles.

5.4 Promotion / Advertising

- 5.4.7 Promotion of international telemedia services shall be limited to bona fide international direct dial codes
- 5.4.8 The use of the word "FREE" (including close derivations) shall be prohibited in promotions and advertising.
- 5.4.9 The disclosure "International long distance rates apply" shall be clearly and horizontally displayed.
- 5.4.10 All disclosures shall be of sufficient size and shall clearly contrast with the background, so as to be readily noticeable, readable and comprehensible.
- 5.4.11 In radio or television advertising, if the direct dial international telephone number is stated in the audio or video portion, then "International long distance rates apply" shall also be stated at least once in the audio.

7.3 Children and Juveniles

- 7.3.6 Programmes shall not be directed at children under the age of 12.
- 7.3.7 Programmes directed at individuals under the age of 18 shall contain clear and conspicuous disclosure that they must have the permission of a parent or legal guardian prior to calling the service.